

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1921

No. 48

THE UNITED STATES OF AMERICA, PLAINTIFF IN
ERROR,

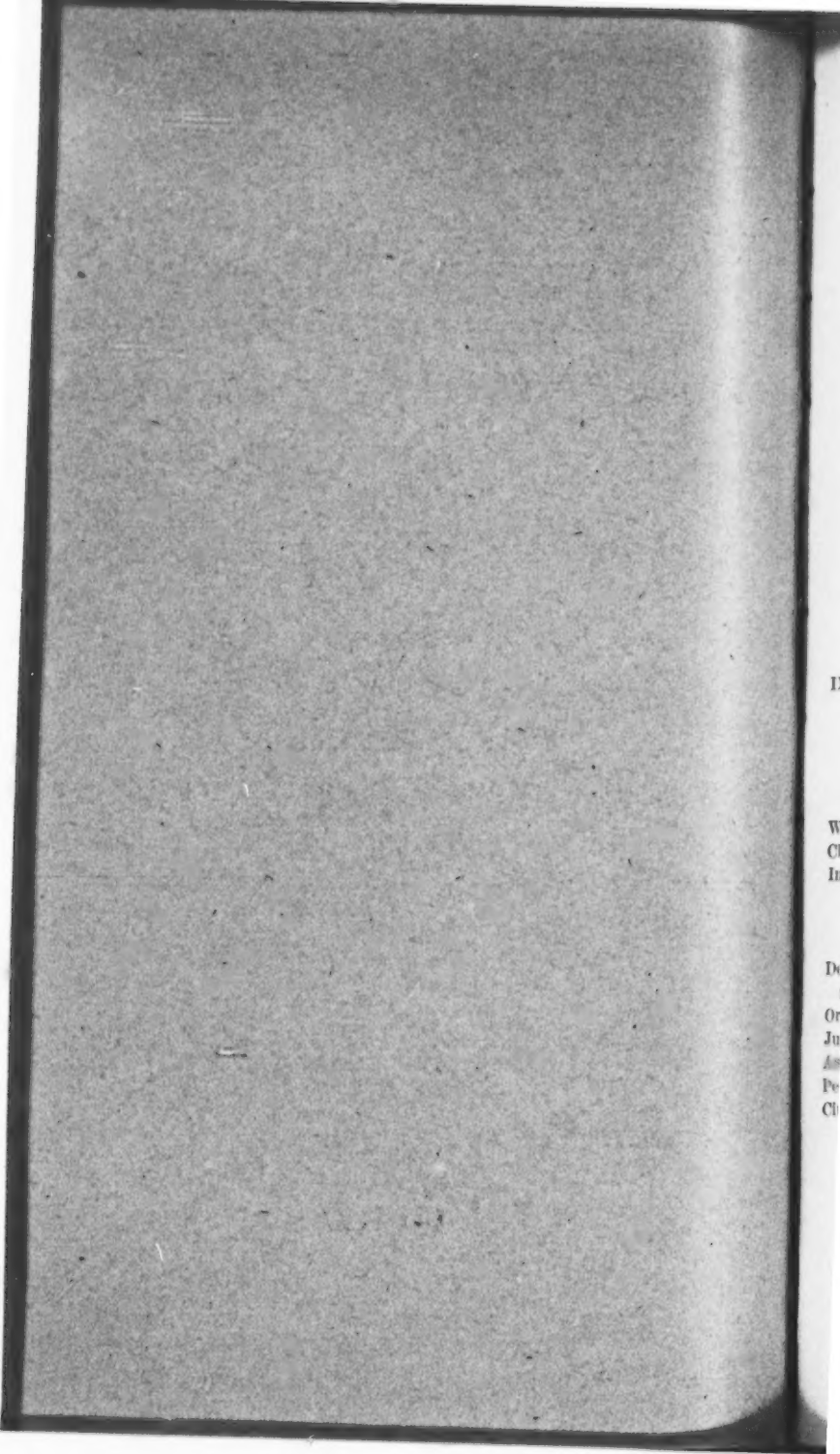
VS.

PAUL SACKS.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK.

FILED MAY 10, 1922.

(27672)



12

W
C
In

De
Or
Ju
As
Pe
Cl

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1920.

No. 330.

THE UNITED STATES OF AMERICA, PLAINTIFF IN
ERROR,

vs.

PAUL SACKS.

APPEAL FROM A DECISION OF THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK.

INDEX.

	Original.	Print.
of error.....	1	1
s's certificate.....	2	1
rtment.....	4	2
Exhibit A. United States war savings certificate.....	6	5
Exhibit B. United States war savings certificate.....	8	7
Exhibit C. United States war savings certificate.....	10	9
tion, Hough, C. J., granting motion to quash and sustaining de- rrer.....	12	11
r for judgment.....	24	18
ment.....	26	19
ments of error.....	28	19
on for writ of error.....	35	24
lon.....	36	24

Gr
Be
the
Unit
or s
Sack
said

W
corre
this
unde
proc
Sup
that
Dist
the
prem
error
Unit
W
U
one t
(s
Cler.
Sa

TH

L.
Stat
seco
obed
here
scrip
of t
erro

In
be l
trics
the

The President of the United States of America to the honorable judges of the District Court of the United States for the Southern District of New York in the second circuit.

g:

use, in the record and proceedings, as also in the rendition of judgment of a plea, judges in the said District Court of the United States for the Southern District of New York, before you, of you, between the United States of America and Paul Sacks, a manifest error hath happened to the great damage of the United States of America, as by its complaint appears, being willing that such error if any hath been, should be duly corrected and full and speedy justice done to the part aforesaid in behalf, do command you, if judgment be therein given, that then by your seal, distinctly and openly, you send the record and proceedings aforesaid with all things concerning the same to the District Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, City of Columbia, within thirty days from the date hereof. That the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that which is of right and according to the laws and customs of the United States ought to be done.

In witness, the honorable Edward D. White, Chief Justice of the United States, the 27th day of March, in the year of our Lord one thousand nine hundred and twenty.

L.]

ALEX. GILCHRIST, JR.,

clerk of the District Court of the United States of America for the Southern District of New York.

The foregoing writ is hereby allowed.

LEARNED HAND,

United States District Judge.

UNITED STATES OF AMERICA,

Southern District of New York, ss:

Alex. Gilchrist, jr., clerk of the District Court of the United States of America for the Southern District of New York, in the second circuit, by virtue of the foregoing writ of error, and in compliance thereto, do hereby certify that the following pages numbered from four to 37, inclusive, contain a true and complete transcript of the record and proceedings had in said court in the cause of the United States, plaintiff in error, vs. Paul Sacks, defendant in error, as the same remain of record and on file in said office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this 23rd day of April, in the year of our Lord one thousand nine hundred and twenty, and

of the Independence of the United States the one hundred and forty-fourth.

[SEAL.]

ALEX. GILCHRIST, Jr.,
Clerk.

3 (Endorsed:) C 20-251. U. S. District Court, Southern District of New York. The United States, plaintiff in error, versus Paul Sacks, defendant in error. Writ of error.

Francis G. Caffey, United States attorney, attorney for plff. in error. U. S. District Court. Filed Mar. 27, 1920, S. D. of N. Y.

4

Indictment.

In the District Court of the United States of America for the Southern District of New York.

Southern District of New York, ss:

The grand jurors of the United States of America being duly empaneled and sworn in the District Court of the United States for the Southern District of New York and inquiring for said district on their oath present that heretofore, to wit, on the 1st day of October, 1919, at the Southern District of New York and within the jurisdiction of this court, Paul Sacks did, with intent to defraud, alter an obligation of the United States, to wit, a war savings certificate of the United States of the series of 1918, Numbered 31123061, bearing the name Peter P. Balles, 17½ Clark St., Binghamton, New York, in that the said defendant did then and there tear from the face of said war savings certificate two war savings certificate stamps of the United States of the series of 1918, thereto before attached; that the said obligation of the United States so with intent to defraud, altered by the said defendant, marked "Exhibit A," is hereto attached and made a part of this indictment; against the peace of the United States and their dignity and contrary to the form of the statute of the United States in such case made and provided. (Section 148 U. S. C. C.)

Second Count.

And the grand jurors aforesaid, on their oath aforesaid, do further present that heretofore, to wit, on the 1st day of October, 1919, at the Southern District of New York and within the jurisdiction of this court, Paul Sacks did, with intent to defraud, alter an obligation of the United States, to wit, a war savings certificate of the United States of the series of 1918, Numbered 21607022, bearing the name Ethel C. Hickox, 11 Laurel St., Johnson City, Broome

County, New York, in that the said defendants did then and there tear from the face of said war savings certificate two war savings certificate stamps of the United States of the series of 1918, marked "Exhibit B," thereto before attached; that

5

the said obligation of the United States so with intent to defraud, altered by the said defendant, marked "Exhibit B," is hereto attached and made a part of this indictment; against the peace of the United States and their dignity and contrary to the form of the statute of the United States in such case made and provided. (Section 148, U. S. C. C.)

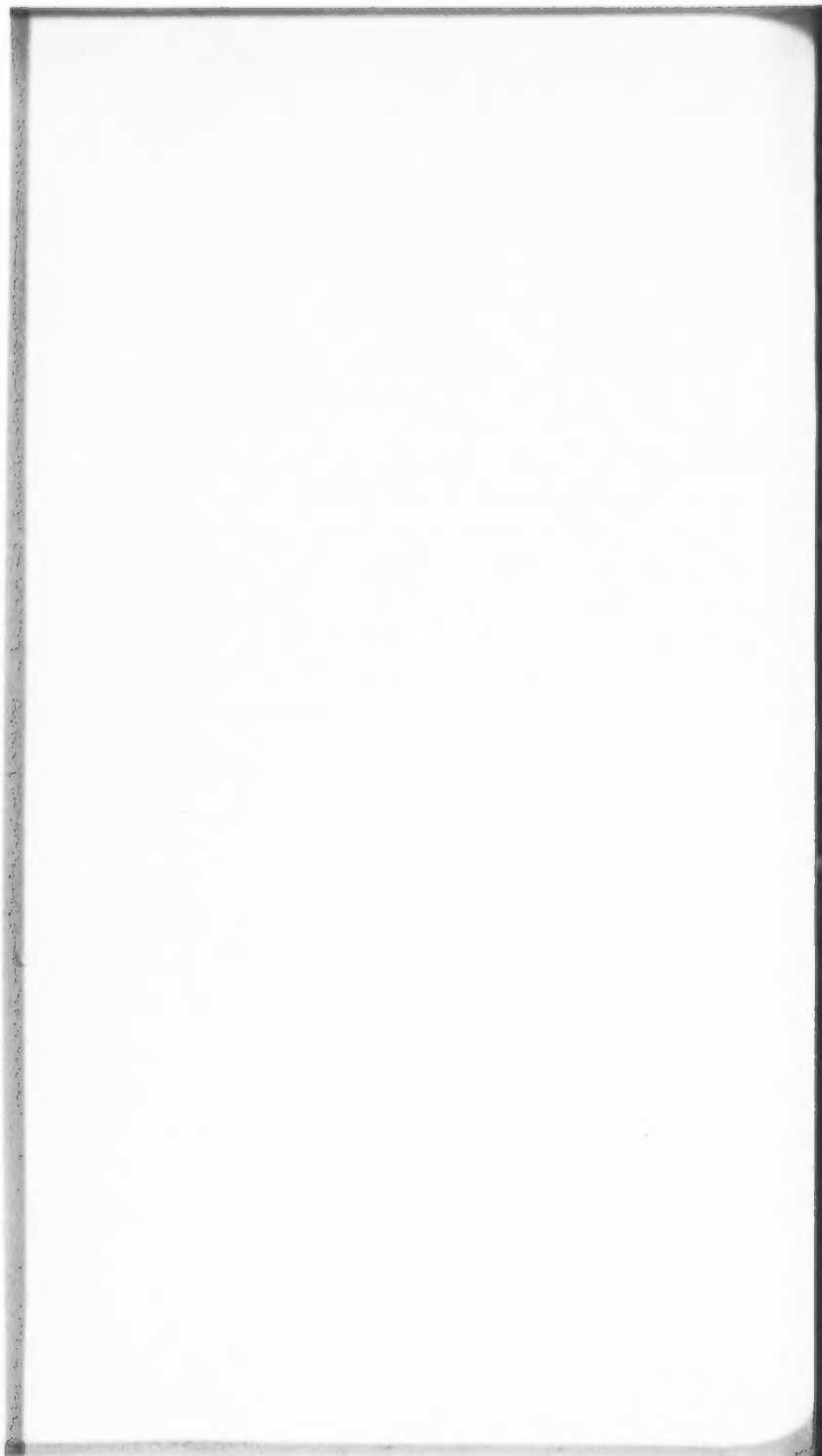
Third count.

And the grand jurors aforesaid, on their oath aforesaid, do further present that heretofore, to wit, on the 13th day of November, 1919, at the Southern District of New York and within the jurisdiction of this court, Paul Sacks unlawfully, wilfully, and knowing the same to have been altered, have and keep in his possession with intent to defraud the United States and with intent to pass and sell the same, an altered obligation of the United States, to wit, a portion of a war saving certificate of the United States of the series of 1918, with three war savings certificate stamps thereto attached; that the said obligation of the United States was altered in that the portion thereof, which the defendant did have and keep in his possession, had been torn from a whole war savings certificate; that the altered obligation of the United States which the defendant did have and keep in his possession is marked "Exhibit C," attached hereto and made a part of this indictment; against the peace of the United States and their dignity and contrary to the form of the statute of the United States in such case made and provided. (Section 151, U. S. C. C.)

FRANCIS G. CAFFEY,

United States Attorney.

(Here follows Exhibits A, B, and C.)



3, 7

EXHIBIT A.



15

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



16

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



17

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



18

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



19

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



20

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918

UNITED STATES OF AMERICA WAR-SAVINGS CERTIFICATE



CERTIFICATE

This certifies that, subject to the terms and conditions printed herein, the owner named on the back hereof will be entitled to receive on January 1, 1923, in respect of each United States War-Savings Certificate Stamp of the Series of 1918 then affixed hereto, the amount indicated thereon as then payable or at expiration, will be entitled to receive at any earlier date in respect of such such Stamp then affixed hereto the sum or amount indicated in the table printed herein.

January 2, 1918

M. J. McQuinn

Secretary of the Treasury

TERMS AND CONDITIONS

1. This certificate is not a valid obligation unless a United States War-Savings Certificate Stamp of the Series of 1918 is affixed hereto.
2. This certificate is of no value except to the owner named hereon, and is not transferable.
3. Not more than twenty United States War-Savings Certificate Stamps, and only such Stamps of the Series of 1918, may be affixed hereto.

4. This certificate may be registered at any post office of the first, second, or third class, subject to such regulations as the Postmaster General may prescribe. Unless registered, the United States will not be liable if payment be made to a person not the rightful owner.

5. This certificate, if not registered, is payable at any money-order post office, and on January 1, 1923, at the Treasury Department in Washington, but if registered, is payable only at the post office where registered. No post-office, however, is required to make payment, either on January 1, 1923, or on any other date, until ten days after receiving written demand therefor.

6. The law provides that no one person shall at any one time hold War-Savings Certificates to an aggregate amount exceeding One Thousand Dollars.

7. Upon payment hereof, this certificate must be surrendered and the receipt printed hereon must be signed by the owner in the presence of the official to whom surrendered. In case of death or disability a special receipt must be signed in form prescribed by the Secretary of the Treasury. Upon furnishing evidence of loss of a registered certificate satisfactory to the Secretary of the Treasury, the owner thereof shall be entitled to receive payment of the amount for which it shall have been registered.

Table showing how a War-Savings Certificate increases in value in respect of each War-Savings Certificate Stamp of the series of 1918 thereto affixed:

Month	1918	1919	1920	1921	1922
January	4.12	4.24	4.36	4.48	4.60
February	4.13	4.25	4.37	4.49	4.61
March	4.14	4.26	4.38	4.50	4.62
April	4.15	4.27	4.39	4.51	4.63
May	4.16	4.28	4.40	4.52	4.64
June	4.17	4.29	4.41	4.53	4.65
July	4.18	4.30	4.42	4.54	4.66
August	4.19	4.31	4.43	4.55	4.67
September	4.20	4.32	4.44	4.56	4.68
October	4.21	4.33	4.45	4.57	4.69
November	4.22	4.34	4.46	4.58	4.70
December	4.23	4.35	4.47	4.59	4.71
January 1, 1923					5.00



1

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP



5

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



9

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



2

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



6

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



10

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



11

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



12

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



3

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



7

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



13

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



4

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



8

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



14

AFFIX ONLY
\$5.00 WAR-SAVINGS
CERTIFICATE STAMP
SERIES OF 1918

UNITED STATES WAR-SAVINGS CERTIFICATE

SERIES OF 1918

No 31123061

SERIES A

Name in Full

Street Address

City or Town

County

State

Received \$_____ in payment hereof, I hereby
certify that I am the identical person named above and the
owner of this certificate, that I am receiving payment on my
own behalf and not for any other person, and that I do not
hold War-Savings Certificates to an aggregate amount exceed-
ing One Thousand Dollars.

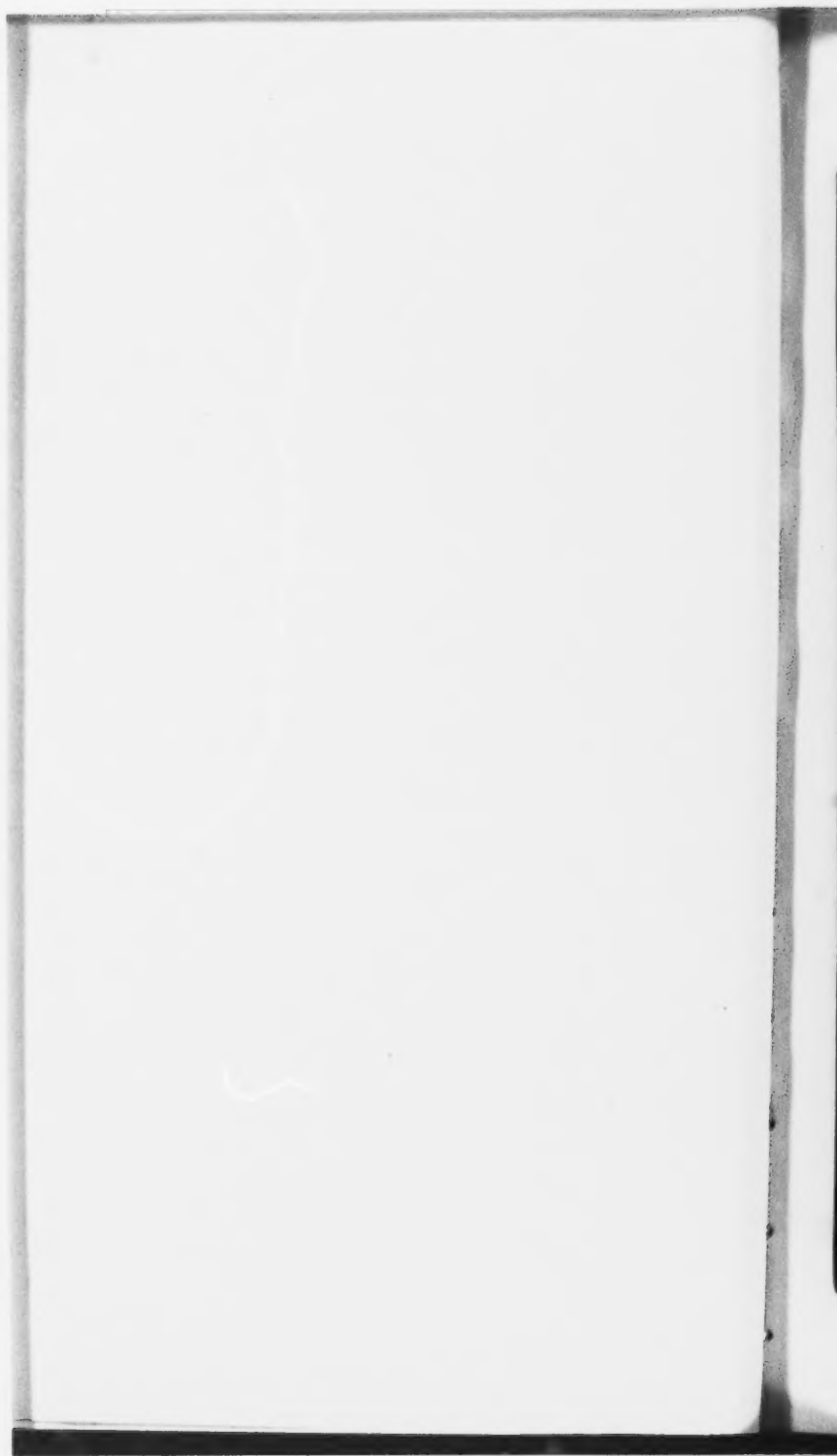
Date

Signature of Owner

SPACE FOR REGISTRATION

Office Number

Registration Number





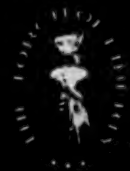
15

AFFIX ONLY
\$75 WAR SAVINGS
CERTIFICATE STAMP



16

AFFIX ONLY
\$75 WAR SAVINGS
CERTIFICATE STAMP



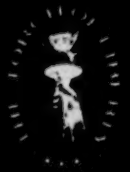
17

AFFIX ONLY
\$75 WAR SAVINGS
CERTIFICATE STAMP



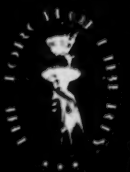
18

AFFIX ONLY
\$75 WAR SAVINGS
CERTIFICATE STAMP



19

AFFIX ONLY
\$75 WAR SAVINGS
CERTIFICATE STAMP



20

AFFIX ONLY
\$75 WAR SAVINGS
CERTIFICATE STAMP

UNITED STATES OF AMERICA WAR-SAVINGS CERTIFICATE

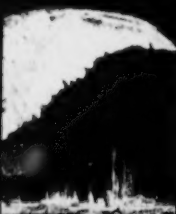


CERTIFICATE

This certifies to the terms and conditions herein the one the back hereof are never in primary of each United States deposits stamp of the affixed to be deposited thereon as a subscription will be over at any quarter of each such stamp for the term in the table from January 1, 1918.



NTES

A
INGS
ATE

ATE

subject to
has been
named in
entitled to
respected
has been
series of 1918
amount in
payable or
entitled to
to in a post
in effect
entitled
has been
y. 1918-1920

TERMS AND CONDITIONS

1. This certificate is not a valid obligation unless a United States War Savings Certificate Stamp of the Series of 1918 is affixed hereto.

2. This certificate is of no value except to the owner named hereon, and is not transferable.

3. Not more than twenty United States War Savings Certificate Stamps, and only such Stamps of the Series of 1918, may be affixed hereto.

4. This certificate may be registered at any post office of the first, second, or third class, subject to such regulations as the Postmaster General may prescribe. Unless registered, the United States will not be liable if payment be made to a person not the rightful owner.

5. This certificate, if not registered, is payable at any money-order post office, and on January 1, 1923, at the Treasury Department in Washington, but if registered, is payable only at the post office where registered. No post office, however, is required to make payment, either on January 1, 1923, or on any other date until ten days after receiving written demand therefor.

6. The law provides that no one person shall at any one time hold War-Savings Certificates to an aggregate amount exceeding One Thousand Dollars.

7. Upon payment hereof, this certificate must be surrendered and the receipt printed hereon must be signed by the owner in the presence of the official to whom surrendered. In case of death or disability a special receipt must be signed in form prescribed by the Secretary of the Treasury. Upon furnishing evidence of loss of a registered certificate satisfactory to the Secretary of the Treasury, the owner thereof shall be entitled to receive payment of the amount for which it shall have been registered.

Table showing how a War-Savings Certificate increases in value in respect of each War-Savings Certificate Stamp of the series of 1918 thereto affixed.

Month.	1918.	1919.	1920.	1921.	1922.
January.	4.12	4.24	4.36	4.48	4.60
February.	4.13	4.25	4.37	4.49	4.61
March.	4.14	4.26	4.38	4.50	4.62
April.	4.15	4.27	4.39	4.51	4.63
May.	4.16	4.28	4.40	4.52	4.64
June.	4.17	4.29	4.41	4.53	4.65
July.	4.18	4.30	4.42	4.54	4.66
August.	4.19	4.31	4.43	4.55	4.67
September.	4.20	4.32	4.44	4.56	4.68
October.	4.21	4.33	4.45	4.57	4.69
November.	4.22	4.34	4.46	4.58	4.70
December.	4.23	4.35	4.47	4.59	4.71
January 1, 1923.					5.00

UNITED STATES WAR SAVINGS CERTIFICATE

No 21607022

SERIES A

Handwritten:
Name
Address
City

State

In payment hereof, I hereby certify that the person named above and the person named below are the persons to whom I am receiving payment on my behalf, and that I do not intend to use the proceeds to an aggregate amount exceeding

Signature of Owner

FOR REGISTRATION



3

AFFIX ONLY
\$5.00 WAR SAVINGS
CERTIFICATE STAMP

SERIES OF 1918



4

AFFIX ONLY
\$5.00 WAR SAVINGS
CERTIFICATE STAMP

SERIES OF 1918



7

AFFIX ONLY
\$5.00 WAR SAVINGS
CERTIFICATE STAMP

SERIES OF 1918



8

AFFIX ONLY
\$5.00 WAR SAVINGS
CERTIFICATE STAMP

SERIES OF 1918



12

AFFIX ONLY
\$5.00 WAR SAVINGS
CERTIFICATE STAMP

SERIES OF 1918



13

AFFIX ONLY
\$5.00 WAR SAVINGS
CERTIFICATE STAMP

SERIES OF 1918



14

AFFIX ONLY
\$5.00 WAR SAVINGS
CERTIFICATE STAMP

SERIES OF 1918



1

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



2

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



5

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



6

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



9

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



10

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918



11

AFFIX ONLY
\$500 WAR SAVINGS
CERTIFICATE STAMP
SERIES OF 1918

UNITED STATES WAR-SAVING SERIES OF 1918

Name in Full

Street Address

City or Town

County

Received \$
I hereby certify that I am the
owner of this certificate
on my own behalf and not for
the use of any other person
to hold War-Savings Certi-
ficate One Thousand Dollars

Date

SPAC

Office Number

Registration Number



1

AFFIX ONLY
\$5.00 WAR SAVINGS
CERTIFICATE STAMP

SERIES OF 1918



2

AFFIX ONLY
\$5.00 WAR SAVINGS
CERTIFICATE STAMP

SERIES OF 1918


UNITED STATES
WAR SAVINGS
CERTIFICATE
STAMP

COST 1918 JAN 4.12 DOLLARS	WHEN AFFIXED TO A CERTIFICATE	COST 1918 JULY 4.18 DOLLARS
FEB 4.13 DOLLARS	 5 DOLLARS	AUG 4.19 DOLLARS
MAR 4.14 DOLLARS		SEPT 4.20 DOLLARS
APR 4.15 DOLLARS		OCT 4.21 DOLLARS
MAY 4.16 DOLLARS		NOV 4.22 DOLLARS
JUNE 4.17 DOLLARS		DEC 4.23 DOLLARS
WILL BE PAYABLE JANUARY 1, 1923		
SERIES OF 1918 1923 SERIES OF 1918		

UNITED STATES
WAR SAVINGS
CERTIFICATE
STAMP

COST 1918 JAN 4.12 DOLLARS	WHEN AFFIXED TO A CERTIFICATE	COST 1918 JULY 4.18 DOLLARS
FEB 4.13 DOLLARS	 5 DOLLARS	AUG 4.19 DOLLARS
MAR 4.14 DOLLARS		SEPT 4.20 DOLLARS
APR 4.15 DOLLARS		OCT 4.21 DOLLARS
MAY 4.16 DOLLARS		NOV 4.22 DOLLARS
JUNE 4.17 DOLLARS		DEC 4.23 DOLLARS
WILL BE PAYABLE JANUARY 1, 1923		
SERIES OF 1918 1923 SERIES OF 1918		

UNITED STATES
WAR SAVINGS
CERTIFICATE
STAMP

COST 1918 JAN 4.12 DOLLARS	WHEN AFFIXED TO A CERTIFICATE	COST 1918 JULY 4.18 DOLLARS
FEB 4.13 DOLLARS	 5 DOLLARS	AUG 4.19 DOLLARS
MAR 4.14 DOLLARS		SEPT 4.20 DOLLARS
APR 4.15 DOLLARS		OCT 4.21 DOLLARS
MAY 4.16 DOLLARS		NOV 4.22 DOLLARS
JUNE 4.17 DOLLARS		DEC 4.23 DOLLARS
WILL BE PAYABLE JANUARY 1, 1923		
SERIES OF 1918 1923 SERIES OF 1918		



10

AFFIX ONLY
\$5.00 WAR SAVINGS
CERTIFICATE STAMP

SERIES OF 1918

TERMS AND CONDITIONS

1. This certificate is not a valid obligation unless a United States War-Savings Certificate Stamp of the Series of 1918 is affixed hereto.

2. This certificate is of no value except to the owner named hereon, and is not transferable.

3. Not more than twenty United States War-Savings Certificate Stamps, and only such Stamps of the Series of 1918, may be affixed hereto.

4. This certificate may be registered at any post office of the first, second, or third class, subject to such regulations as the Postmaster General may prescribe. Unless registered, the United States will not be liable if payment be made to a person not the rightful owner.

5. This certificate, if not registered, is payable at any money-order post office, and on January 1, 1923, at the Treasury Department in Washington, but if registered, is payable only at the post office where registered. No post-office, however, is required to make payment, either on January 1, 1923, or on any other date, until ten days after receiving written demand therefor.

6. The law provides that no one person shall at any one time hold War-Savings Certificates to an aggregate amount exceeding One Thousand Dollars.

7. Upon payment hereof, this certificate must be surrendered and the receipt printed hereon must be signed by the owner in the presence of the official to whom surrendered. In case of death or disability a special receipt must be signed in form prescribed by the Secretary of the Treasury. Upon furnishing evidence of loss of a registered certificate satisfactory to the Secretary of the Treasury, the owner thereof shall be entitled to receive payment of the amount for which it shall have been registered.

Table showing how a War-Savings Certificate increases in value in respect of each War-Savings Certificate Stamp of the series of 1918 thereto affixed.

<i>Month</i>	1918	1919	1920	1921	1922
January	4.12	4.24	4.36	4.48	4.60
February	4.13	4.25	4.37	4.49	4.61
March	4.14	4.26	4.38	4.50	4.62
April	4.15	4.27	4.39	4.51	4.63
May	4.16	4.28	4.40	4.52	4.64
June	4.17	4.29	4.41	4.53	4.65
July	4.18	4.30	4.42	4.54	4.66
August	4.19	4.31	4.43	4.55	4.67
September	4.20	4.32	4.44	4.56	4.68
October	4.21	4.33	4.45	4.57	4.69
November	4.22	4.34	4.46	4.58	4.70
December	4.23	4.35	4.47	4.59	4.71
January 1, 1923					5.00

11 (Endorsed:) U. S. District Court. The United States of America vs. Paul Sacks. Indictment. Altering and passing altered obligations of the United States with intent to defraud and intent to pass. Sections 148 and 151, U. S. C. C., Francis G. Caffey, U. S. attorney. A true bill. F. C. Buckhurst, foreman. U. S. District Court, S. D. of N. Y., filed Dec. 1, 1919.

1919, Dec. 10. Deft. pleads not guilty.

1920, Feb. 11. Petition of Paul Sacks to quash indictment.

Feb. 13. Filed memo. opinion, Hough, C. J. Motion denied without prejudice to any rights of deft. to ask same or equivalent relief at trial.

Feb. 27. Filed opinion, Hough, J. Motion to quash granted and demurrer sustained.

12 *Opinion.*

District Court of the United States, Southern District of New York.

UNITED STATES OF AMERICA,	}	Indictment 7828. Docket No. C 20-251.
<i>vs.</i>		
PAUL SACKS,		

UNITED STATES,	}	Indictment 8269. Docket C 21-170.
<i>vs.</i>		
HERMAN JANOWITZ, HERMAN OESTREICHER,		
Henry Goldstein, Etta Levine, Julius Roth,		
and John C. Dalton.		

The case of Sacks having been called for trial, defendant moved in open court to quash the indictment on the ground that upon the true construction of the statutes suggested as authorizing the prosecution, Sacks could not be guilty.

The case of Janowitz et al. being likewise called on the day calendar for trial, defendants with the consent of the prosecutor moved to withdraw their pleas of not guilty and offer a demurrer to the indictment. The motion was granted, and on a day subsequent both the motion to quash and the demurrer were argued at length.

The cases are thought to be typical of a considerable number of prosecutions now pending in this district, and considering the nature of the criminality alleged and the diversity of opinion that has arisen thereupon it has seemed best to permit, and indeed facilitate, the presentation of the legal questions in such shape that if decided adversely to the prosecution, authoritative review will be not only possible but expeditious.

13 The several counts of these indictments rest not only upon the sections of the Criminal Code hereinafter pointed out, but on the 6th section of the act of September 24, 1917 (which author-

ized "war savings certificates") and the 2d section of the act of September 24, 1918, but upon a series of "department circulars" issued from the office of the Secretary of the Treasury and of which this court has taken judicial notice.

These circulars are No. 94, or war saving circular No. 1, dated November 15, 1917; No. 108, or war saving circular No. 8, dated January 21, 1918; No. 101, war saving circular No. 5, dated February 19, 1918, and No. 128, dated December 18, 1918.

The first and second counts of the Sacks indictment allege violation of section 148 of the Criminal Code in that Sacks with intent to defraud altered an obligation of the United States, to wit, a war saving certificate, by tearing a war saving stamp of 1918 therefrom.

The second count of the Janowitz indictment alleges that the defendants conspired to violate section 148 in that they purchased certificates of the series both of 1918 and 1919 from persons not authorized to sell the same by the Secretary of the Treasury; that they also obtained war saving certificates to which stamps had never been affixed and on which no owner's name had ever been written, and that they intended and agreed to detach the stamps from the purchased certificates and affix the same to the blank certificates, to the end that in the name of some person other than the defendants the certificates might be presented for redemption at a post office and at a date prior to maturity.

14 Thus Sacks is accused under what is usually called the counterfeiting statute, and Janowitz et al. are accused of conspiring to commit the same offense.

The third count of the Sacks indictment rests on section 148 of the Criminal Code, and charges the defendant with keeping possession with intent to defraud an altered obligation of the United States, that is to say, a piece of pasteboard obviously torn from a certificate of the series of 1918 and having three stamps affixed. The original documents said to have been forged or altered by Sacks are annexed to and made a part of the indictment against him.

The first count of the Janowitz indictment charges under section 37 of the Criminal Code a conspiracy to defraud the United States by doing exactly the same things as are specified in the second count to constitute a conspiracy to commit an offense under sec. 148.

The scienter as to fraud is thus set forth:

"And the defendants would and did then and there well know that the United States was not obligated to pay them money for the said purchased certificates, for the said purchased stamps, or the said blank certificates, and that the said purchased certificates, the said purchased stamps, and the said blank certificates were worthless in their hands, and that they were not, that not one of them was entitled to receive payment therefor from the United States at or before maturity thereof, and that the United States was not obligated

to pay them or any one of them therefor at or prior to maturity thereof."

Joseph A. Seidman for Sacks:

David Goldstein and Aiken A. Pope for Janowitz, Oestreicher, and Goldstein:

John McKim Minton, jr., and Joseph F. Curren for Levine;

15 Francis G. Caffey, U. S. Attorney, and

James W. Osborne, special assistant to the Attorney General for the United States.

Memorandum decision.

The words of the act of Congress especially invoked in this matter are that "it shall not be lawful for any one person at any one time to hold war savings certificates to an aggregate amount exceeding \$1,000," and the further provision: "the Secretary of the Treasury may, under such regulations and upon such terms and conditions as he may prescribe, issue * * * stamps to evidence payments for or on account of such certificates." It was under this statute that the issue of 1918 was put forth; the only material difference as to the issue of 1919 was an amendment of the act declaring that "it shall not be lawful for any one person at any one time to hold war savings certificates of any one series to an aggregate amount exceeding \$1,000."

Department circulars Nos. 94, 101, and 108 may reasonably be taken from their date to apply to the issue of 1918. Circular No. 128 is the announcement of the certificate series of 1919, but I do not think that circular changed the material regulations previously issued and affecting all war saving certificates.

I have assumed that all these circulars are to be treated as Treasury regulations, although only one of them (No. 108) is called by that name.

Circular 94 declares that a war saving certificate of the series of 1918 "will be an obligation of the United States when and only when" at least one stamp is affixed thereto; but the Secretary "offers for sale" war savings certificates payments for or on account of which "must be evidenced by" stamps which "are to be affixed thereto."

16 It is declared that no certificate will be issued unless at least one stamp shall at the same time be purchased and affixed thereto, but "no additional charge" will be made for the certificate itself. It is required that the name of the owner of each certificate must be written thereupon "at the time of the issue thereof."

It is then declared by No. 94 that "War savings certificates are not transferrable and will be payable only to the respective owners named thereon" except in events not now material. I think these were all the instructions, regulations, or rules in existence at the time stamps were first put on sale.

No. 108, which is formally entitled as a "Treasury regulation," contains in its fourteenth paragraph the language thought to be most important in this litigation.

It is by that rule provided that if any person receives certificates in excess of an aggregate of one thousand dollars maturity value in any lawful manner, the excess amount shall be immediately surrendered at a money-order post office and be paid for at their then value; but "in any other case if it shall appear at the time a certificate is presented for payment that the person presenting the same holds certificates to an aggregate amount exceeding a thousand dollars maturity value, the postmaster shall refuse payment of all certificates in excess of such amount and shall demand surrender of certificates held by such owner until the holdings of such owner are reduced to a thousand dollars maturity value. The postmaster shall make appropriate notation on certificates so surrendered and shall

forward such certificates to the Third Assistant Postmaster General for transmission to the Secretary of the Treasury. Such certificates shall have no validity for any purpose."

Under these rules or regulations and the statute it has been admitted on this argument that a war saving stamp is property in the ordinary sense of the word; that it may pass from hand to hand like any other similar piece of property.

Yet it is said that this property has no value in and of itself; it is but a receipt for a certain amount of money; but when it is affixed, not to any certificate of the corresponding series, but to a certificate bearing the name of the person who obtained it from an agent of the Treasury and still owned by that person, it becomes an integral, irremovable portion of an indissoluble obligation of the United States.

The remainder of the Treasury or prosecutor's position is that if by purchase one accumulates certificates bearing stamps in excess of a thousand dollars' maturity value such excess is subject to confiscation if the Postmaster can get hold of it; but in any event the excess certificates "shall have no validity for any purpose."

Applying these regulations to these indictments it is observable that in the Sacks indictment there is no effort to apply, and that instrument bears no relation to, regulation No. 14. It is not alleged that Sacks had or tried to get more than a thousand dollars' worth of certificates of the series of 1918 (maturity value). The proposition is, baldly, that when Sacks removed a stamp from a certificate bearing a name not his own, and did it "with intent to defraud," he became what is commonly called a counterfeiter under section 148. And

in the third count it is alleged in substance that when Sacks had in possession "with intent to defraud the United States and with intent to pass and sell the same" a piece of paste-board having certain stamps upon it, he was criminally possessed of a counterfeited obligation of the United States under section 151.

In other words, the excess proviso of the Treasury regulation has no application to the Sacks indictment.

The Janowitz indictment is more subtle, for both counts allege in substance a business scheme, viz: The purchase of war saving certificates with intent to detach stamps therefrom and use them upon other certificates bearing other names.

But nowhere is it alleged as a part of the conspiracy that any member of the postal force was to be corrupted in order that the defendants might procure money for any certificates either before or after maturity. The proposition baldly is that purchased certificates and the stamps affixed thereto were worthless for any purpose in the hands of the purchaser, no matter whether the amount of such purchased certificates was small or great; the proposition is that when affixed to a certificate the united stamp and pasteboard became irrevocable and can not be disunited; and the moment such legal title passes from the hand of the original holder (by purchase at maturity or by gift or otherwise) to the hand of another, it crumbles into legal dust and becomes, in the language of the Janowitz indictment, "worthless in their hands" (i. e., the purchaser's hands), and so worthless that payment could never become due either "at or before maturity."

It may here be noted that the language of the stamp of the series of 1918 is this: "United States War Savings Certificate Stamp.

When affixed to a certificate, Five dollars will be payable January 1, 1923."

One other matter has in argument at this bar been admitted as a fact, viz: That when Congress said that it should "not be lawful" for any one person at any one time to hold more than a thousand dollars' worth of war-savings certificates, Congress did not make such holding a crime.

To me it appears very plain that the foregoing element of discussion produce the following problems:

(1) Do the rules of the Treasury prohibit so as to render valueless in the hands of the transferee war-savings stamps, as distinct from the certificates or pasteboards to which they are attached?

(2) If the Treasury rules are to be interpreted as going this far, is their violation criminal?

(3) If the rules do go as far as above indicated, and the intent thereof was to make their violation criminal, are such rules so interpreted within the statutory power of the Secretary of the Treasury?

First. It appears to me plain that neither of the counts in the Janowitz indictment, nor the second count in the Janowitz indictment, requires the Treasury regulations to be interpreted as taking all the value out of transferred stamps.

Indeed, the very allegation that the removal of a stamp constitutes counterfeiting within the counterfeiting act seems necessarily to imply a loss of value in the thing removed.

But the first count of the Janowitz indictment plainly invokes the very wide definition of the phrase "defraud the United States" which received authoritative statement in *Haas vs. Henkel* (216

U. S., 462) and it is said (in substance) that it is a lawful function of the Treasury Department to prevent the United States
20 being compelled, or even requested, to redeem a war-saving stamp in any other manner than for the person and in the manner preferred by the Treasury. Wherefore it was a lawful exercise of the regulatory power conferred by the statute to destroy and destroy utterly all property value in a transferred certificate, and therefore in a transferred stamp if attached thereto.

It can not be denied that such destruction of property rights is a possible exercise of congressional power: section 3477, Revised Statutes, as interpreted in *re Hudford Co.* (257 F. R., 722, and cases cited) proves this.

In my opinion, therefore, the regulation prohibiting transfer, taken in conjunction with the 14th section of circular 108, is an effort by the Secretary through departmental regulations to produce exactly the condition wrought by Congress under the section of the Revised Statutes last above referred to.

Second. If the Treasury regulations thus interpreted are reasonable, appropriate, and consistent with the act of Congress, their violation is as much a transgression of the statute as if the regulatory provision had been written in the act. This seems to me the result of United States *vs.* Morehead (243 U. S., 607) and United States *vs.* Small (236 U. S., 405).

Applying the extreme interpretation which seems necessary to sustain the first Janowitz count to the crimes averred under criminal code sections 148 and 151, it must follow that it is as much counterfeiting or forging to put a transferred stamp on a certificate as it is to detach a stamp from a certificate and thereby alter the same.

This extreme interpretation must, I think, be adopted throughout, because the regulations can not be so interpreted in one
21 breath as to sustain a count that rests only on section 37, and then softened when the extreme holding is not necessary to sustain other counts.

Third. The preferred statement of the prosecutor in support of especially section 14 of circular 108 is that a stamp in and of itself is nothing: it has no value except as a receipt.

From this flows the assertion that when that receipt is affixed to a pasteboard which by itself has no value whatever, the two things put together become an obligation of the United States not dissimilar from a bond or a Treasury note, except that the quality of assignability or transferability is denied to it.

It is said that even if the stamp, per se worthless, may pass from hand to hand, it becomes when affixed to the certificate like the ink upon a note and its removal is as much an alteration as would be the erasure of that ink.

To me this is an ingenious but fallacious arrangement of words. To deny value to the war saving stamp is against common sense and contradictory to a course of business vigorously pursued for the last few years, which has succeeded in forcing these stamps into

the possession of people whom it is sarcasm to call "investors," and who would be surprised beyond measure to be told that their stamps had no "value."

When Congress authorized the issuance of "stamps to evidence payments for or on account of such certificates," and did not deny to the stamp holders the right of transfer, such right existed. The Treasury has sought to take it away by making the certificates non-transferable. Assuming that power exists to prohibit transfer of the certificates, I am wholly unable to perceive that there is any congressional authority for the Secretary's prohibiting the transferability of the stamps affixed to the certificates.

Nowhere is it said that any particular stamp shall evidence a payment on any particular certificate.

This I think is the gist of the matter: Is a regulation which as interpreted, in terms takes away a property right in a manner not specifically authorized by statute, a valid rule? I can not persuade myself that such is the case.

Congress has certainly not done that which was held sufficient to make a crime of rule violation in *United States vs. Grimaud*, (220 U. S. 506). The *Smull* and *Morehead* cases, *supra*, do I think hold that where the manner of obtaining a grant is committed to a department, that department may regulate the procedure to obtain the same, and if a violation of that procedure runs counter to any criminal statute of Congress, then violation of the regulation is punished by the statute, and so within the *Grimaud* case, *supra*.

But the prohibition against transfer of stamps affixed or unaffixed is far more than a procedural regulation. A stamp is a thing of value, bought and paid for, and to deprive it of the quality of assignability is a diminution of lawfully existing property rights for which in my judgment congressional action alone will suffice.

One further consideration is peculiar to the third count of the Sacks indictment.

It is not alleged that Sacks tore up or tore off a piece of pasteboard bearing stamps from a war saving certificate. It must be assumed that he did not do it, and I think it must even be assumed (in favor of innocence) that the holder and owner pursuant to Treasury regulations of the certificate from which the piece was torn, did the deed himself. The necessary implication of this third count is that such an act by the owner of the obligation constituted a violation of section 148, for only by that holding could Sacks' possession be a violation of section 151, in manner and form as alleged.

It follows, therefore, that by Treasury regulation alone an owner who destroys an obligation (for this certificate was certainly destroyed as such) violates section 148, unless he also destroys the stamps, which are just as much his after destruction of the pasteboard as they were before, unless of course the Treasury Department can diminish his property right.

That department has endeavored to diminish such property right, and indeed to destroy it utterly unless the right is exercised as per regulation. It does not seem to me that this is a method of carrying out the statute as written: it is additional and very drastic attempted legislation.

For these reasons the motion to quash is granted and the demurrer sustained.

Feb. 27, 1920.

CHAS. M. HOUGH,

U. S. C. J.

Filed Feb. 27, 1920.

24

Order for judgment.

At a stated term of the District Court of the United States for the Southern District of New York, for the trial of criminal causes, held at the United States courthouse and post-office building, in the Borough of Manhattan, city of New York, on the 26 day of March, 1920.

Present, Hon. Charles M. Hough, U. S. judge.

THE UNITED STATES,	}	Indictment No. 7828.
<i>vs.</i>		
PAUL SACKS.		

An indictment against Paul Sacks, the defendant above named, having been found and filed by the grand jurors of the United States in and for the Southern District of New York in the office of the clerk of the District Court of the United States for the Southern District of New York, on the 1st day of December, 1919, and thereafter the defendant above named having been arraigned moved to quash said indictment on the ground that upon the ground that the construction of the statutes of the United States, to wit, section 6 of the act of Congress of September 24, 1917, and as amended by the act of Congress of September 24, 1918, and sections 148 and 151 of the Criminal Code of the United States, the defendant cannot be guilty of crime.

Now on motion of Joseph H. Seidman, Esq., attorney for defendant, it is hereby

Ordered and adjudged that the indictment herein is quashed, set aside, and declared to be null and void because the indictment is not authorized under any construction of the act of Congress upon which it is alleged to be predicated, to wit, the act of Congress of September 24, 1917, section 6 thereof, and the act of Congress of September 24, 1918, section 2 thereof, and sections 148 and 151 of the Criminal Code of the United States, or under the construction of any other statute of the United States now in force, and it is further ordered that judgment be entered accordingly.

C. M. HOUGH,

United States Circuit Judge.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Mar. 26, 1920.

26

Judgment.

United States District Court, Southern District of New York.

THE UNITED STATES
vs.
 PAUL SACKS.

Indictment No. 7828.

An indictment against Paul Sacks, the defendant above named, having been found and filed by the grand jurors of the United States in and for the Southern District of New York, in the office of the clerk of the district court of the United States for the Southern District of New York, on the 1st day of December, 1919, and thereafter the defendant above named, having been arraigned, moved to quash said indictment upon the ground that the construction of the statutes of the United States, to wit, section 6 of the act of Congress of September 24, 1917, and as amended by the act of Congress of September, 24, 1918, and sections 148 and 151 of the Criminal Code of the United States, the defendant cannot be guilty of crime.

Now, on motion of Joseph H. Seidman, attorney for defendant, it is hereby—

Ordered and adjudged that the indictment herein is quashed, set aside, and declared to be null and void because the indictment is not authorized under any construction of the act of Congress upon which it is alleged to be predicated, to wit, the act of Congress of September 24, 1917, and section 6, and as amended by the act of Congress of September 24, 1918, section 2 thereof, and sections 148 and 151 of the Criminal Code of the United States, or under the construction of any other statute of the United States now in force.

27 Judgment entered this 26th day of March, 1920.

ALEX. GILCHRIST, JR.,

*Clerk of the District Court of the United States
 for the Southern District of New York.*

(Endorsed:) U. S. District Court, S. D. of N. Y., filed Mar. 26, 1920.

28 United States District Court, Southern District of New York.

UNITED STATES OF AMERICA
v.
 PAUL SACKS.

Assignments of error.

The United States of America, in connection with its petition for a writ of error, make the following assignments of error which they

allege occurred in the decision of the court herein in quashing the indictment herein, to wit:

(1) The court erred in quashing the indictment herein.

(2) The court erred in quashing the first count of the indictment herein.

(3) The court erred in quashing the second count of the indictment herein.

(4) The court erred in quashing the third count of the indictment herein.

(5) The court erred in holding as it did in quashing the indictment herein that the facts averred in the first count of the indictment did not constitute a violation of section 148 of the United States Criminal Code.

(6) The court erred in holding as it did in quashing the indictment herein that the facts averred in the second count of the indictment did not constitute a violation of section 148 of the United States Criminal Code.

(7) The court erred in holding as it did in quashing the indictment herein that the facts averred in the third count of the indictment did not constitute a violation of section 151 of the United States Criminal Code.

29 (8) The court erred in holding as it did in quashing the indictment herein that by the act of Congress of September 24, 1917, section 6 thereof, and by the act of Congress of September 24, 1918, section 2 thereof, the Secretary of the Treasury of the United States was not empowered and authorized to make a rule and regulation governing the sale of war savings certificates of the United States providing that war savings certificates of the United States should be nontransferable and should be of no value to anyone save the owner thereof whose name had been written thereon at the time of the issue thereof.

(9) The court erred in holding as it did in quashing the indictment herein that the promulgation of a rule and regulation by the Secretary of the Treasury governing the sale of war savings certificates of the United States, by which the Secretary of the Treasury provided that war savings certificates of the United States should be nontransferable and of no value to any person save the owner whose names had been thereon written at the time of the issue of such certificate was not a lawful exercise of authority conferred upon him by section 6 of the act of Congress of September 24, 1917, and by section 2 of the act of Congress of September 24, 1918.

(10) The court erred in holding as it did in quashing the indictment herein that the prescribing by the Secretary of the Treasury of a term and condition of the sale of war savings certificates of the United States by which it was provided that war savings certificates of the United States should be nontransferable and should be of no value to any person save the owner named thereon and was not a lawful exercise of authority conferred upon him by section 6 of the

act of Congress of September 24, 1917, and by section 2 of the act of Congress of September 24, 1918.

30 (11) The court erred in holding as it did in quashing the indictment herein that the promulgation by the Secretary of the Treasury of a rule and regulation governing the sale of war savings certificates of the United States by which it was provided that the name of the owner of each war savings certificate of the United States should be written upon each certificate at the time of the issue thereof was not a lawful exercise of the authority conferred upon him by the act of Congress of September 24, 1917, section 6 thereof, and by the act of Congress of September 24, 1918, section 2 thereof.

(12) The court erred in holding as it did in quashing the indictment herein that the prescribing by the Secretary of the Treasury of a term and condition of the sale of war savings certificates of the United States by which it was required that the name of the owner of each war savings certificate of the United States be written upon each certificate at the time of the issue of such certificate was not a lawful exercise of the authority conferred upon him by the act of Congress of September 24, 1917, section 6 thereof, and by the act of Congress of September 24, 1918, section 2 thereof.

(13) The court erred in holding as it did in quashing the indictment herein that the act of Congress of September 24, 1917, section 6 thereof, and the act of Congress of September 24, 1918, section 2 thereof, did not confer upon the Secretary of the Treasury of the United States authority to promulgate as a rule and regulation of the sale of war savings certificates of the United States to the effect that the name of the owner of each war savings certificate of the United States be written upon each war savings certificate of the United States at the time of the issue thereof.

31 (14) The court erred in holding as it did in quashing the indictment herein that the act of Congress of September 24, 1917, section 6 thereof, and the act of Congress of September 24, 1918, section 2 thereof, did not confer upon the Secretary of the Treasury of the United States authority to prescribe as a term and condition of the sale of war savings certificates of the United States that the name of the owner of each war savings certificate of the United States at the time of the issue of such certificate.

(15) The court erred in holding as it did in quashing the indictment herein that the promulgation by the Secretary of the Treasury of the United States of a rule and regulation by which it was provided that war savings certificates could be redeemed at or prior to maturity by no person save the owner whose name had thereupon been written at the time of the issue of the said certificate was not a lawful exercise of the authority conferred upon him by the act of Congress of September 24, 1917, section 6 thereof, and by the act of Congress of September 24, 1918, section 2 thereof.

(16) The court erred in holding as it did in quashing the indictment herein that the prescribing by the Secretary of the Treasury

of the United States of a term and condition of sale of war savings certificates of the United States by which it was provided that war savings certificates could be redeemed prior to maturity by no person save the owner whose name had thereupon been written at the time of the issue of the said certificate was not a lawful exercise of the authority conferred upon him by the act of Congress of September 24, 1918, section 2 thereof.

32 (17) The court erred in holding as it did in quashing the indictment herein that the act of Congress of September 24, 1917, section 6 thereof, and the act of Congress of September 24, 1918, section 2 thereof, did not confer upon the Secretary of the Treasury of the United States power and authority to promulgate as a rule and regulation of the sale of war savings certificates of the United States to the effect that war savings certificates could be redeemed prior to maturity by no person save the owner whose name had thereupon been written at the time of the issue of the said certificate.

(18) The court erred in holding as it did in quashing the indictment herein that the act of Congress of September 24, 1917, section 6 thereof, and the act of Congress of September 24, 1918, section 2 thereof, did not confer upon the Secretary of the Treasury of the United States authority to prescribe as a term and condition of the sale of war savings certificates of the United States that war savings certificates could be redeemed at or prior to maturity by no person save the owner thereof and by a person whose name had thereupon been written at the time of the issue of the said certificate.

(19) The court erred in holding as it did in quashing the indictment herein that the promulgation by the Secretary of the Treasury of a rule and regulation governing the sale of war savings certificates of the United States and the prescription by him of a term and condition of the sale thereof to the effect that a war savings certificate stamp of the United States affixed by an owner of a war savings certificate to such a certificate became by

33 such affixing an irremovable portion of an indissoluble obligation of the United States, was not a lawful exercise of the authority conferred upon him by the act of Congress of September 24, 1917, section 6 thereof, and by the act of Congress of September 24, 1918, section 2 thereof.

(20) The court erred in holding as it did in quashing the indictment herein that the Secretary of the Treasury of the United States did not have authority under the act of Congress of September 24, 1917, section 6 thereof, and under the act of Congress of September 24, 1918, section 2 thereof, to promulgate a rule and regulation governing the sale of, and to prescribe a term and condition of the sale of war savings certificates of the United States to the effect that war savings certificate stamps of the United States should have no redeemable value unless attached to a war savings certificate of the United States owned by a person whose name had been written on such certificate at the time of the issue of such certificate.

(21) The court erred in holding as it did in quashing the indictment herein that the tearing of a war savings certificate stamp of the United States from a war savings certificate of the United States did not constitute an alteration of an obligation of the United States within the meaning of section 148 of the United States Criminal Code.

(22) The court erred in holding as it did in quashing the indictment herein that a war savings certificate of the United States from which war savings certificate stamps of the United States had been torn was not an altered obligation of the United States within the meaning of section 151 of the United States Criminal Code.

(23) The court erred in holding as it did in quashing the indictment herein that the Secretary of the Treasury of the United States was not empowered by the act of Congress of September 24, 1917,

section 6 thereof, and by the act of Congress of September 24, 1918, section 2 thereof, to prescribe regulations governing, and terms and conditions of, the sale of war savings certificates of the United States to the effect that after a war savings certificate stamp of the United States had been affixed to a war savings certificate of the United States by an owner of such certificate, the said stamps could not be detached from such certificate by a person other than the said owner without the loss of the right to attach such stamps to a different war savings certificate not belonging to the owner of the certificate first mentioned and make the latter certificate an obligation of the United States.

(24) The court erred in holding as it did in quashing the indictment herein that the Secretary of the Treasury of the United States was not authorized by the act of Congress of September 24, 1917, section 6 thereof, and by the act of Congress of September 24, 1918, section 2 thereof, to make nontransferable a war savings certificate stamp of the United States after it had been attached to a war savings certificate of the United States by the owner of such certificate.

The United States aforesaid, plaintiff in error, prays that the decision aforesaid and the order entered thereon for the errors aforesaid in the record and proceeding herein may be reversed and altogether held for nothing and that the plaintiff in error may be restored to all things which it has lost by reason of said decision and order and that the district court of the United States be directed to vacate and set aside said order and to compel the defendant in error to plead to the indictment herein and for such other and further relief as to the court may seem proper.

Dated: New York, March 25, 1920.

FRANCIS G. CAFFEY,

United States Attorney for the Southern District of New York.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Mar. 27, 1920.

Petition for writ of error.

United States District Court, Southern District of New York.

UNITED STATES OF AMERICA	}	Petition for writ of error.
<i>vs.</i>		
PAUL SACKS.		

Now comes United States of America, by its attorney, Francis G. Caffey, United States attorney for the Southern District of New York, and complains that in the record and proceeding had in this cause and in the judgment quashing the said indictment, a manifest error hath happened, as well appears from the assignments of error herewith submitted. The United States of America prays for the allowance of a writ of error and for such other orders and process as may cause the same to be corrected by the Supreme Court of the United States.

Dated: New York, N. Y., March 27, 1920.

FRANCIS G. CAFFEY,
United States Attorney for the Southern District of New York,
Attorney for Petitioner.

(Endorsed:) U. S. District Court, S. D. of N. Y. Filed Mar. 27, 1920.

36 By the Honorable Learned Hand, one of the judges of the District Court of the United States for the Southern District of New York.

To: Paul Sacks, defendant in error.

Greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States, at the Capitol, in the city of Washington, in the District of Columbia, on the 26th day of April, 1920, pursuant to a writ of error filed in the office of the Clerk of the District Court of the United States for the Southern District of New York, wherein the United States of America is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment in said writ mentioned should not be corrected and speedy justice should not be done in that behalf.

Given under my hand at the Borough of Manhattan, in the city of New York, Southern District of New York, this 27th day of March, in the year of our Lord one thousand nine hundred and twenty, and of the Independence of the United States the one hundred and forty-fourth.

[SEAL.]

LEARNED HAND,
Judge of the District Court of the United States
for the Southern District of New York.

(Endorsed:) C. U.-251. U. S. District Court, Southern District of New York. The United States, plaintiff in error, versus Paul

Sacks, defendant in error. Citation. Francis G. Caffey, United States Attorney, attorney for plff. in error. Due service of a copy of the within is hereby admitted. New York, March 24, 1920. U. S. District Court, S. D. of N. Y. Filed Mar. 29, 1920. A copy of within received this Mar. 27, 1920. J. A. Seidman, attorney for Paul Sacks.

(Endorsed on cover:) File No. 27672. S. New York, D. C. U. S. Term No. 330. The United States of America, plaintiff in error, vs. Paul Sacks. Filed May 10th, 1920. File No. 27672.

